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June 1, 2021

Via ECF

The Hon. Mary Kay Vyskocil
United States District Court
Southern District of New York
500 Pearl Street, Room 2230
New York, NY 10007

**Re: *Broidy, et al. v. Global Risk Advisors EMEA Ltd., et al.*, No. 1:19CV11861
Plaintiffs' Letter Motion to Submit Declaration for *In Camera* Review**

Dear Judge Vyskocil:

On behalf of Plaintiffs Elliott Broidy and Broidy Capital Management, LLC (collectively, "Plaintiffs"), we respectfully offer to submit for *in camera* review a copy of the original, signed version of the declaration attached as Exhibit A to the proposed second amended complaint.

As required by the Court's Opinion and Order of March 31, 2021 (ECF No. 89), the declaration supports the critical allegations linking the hacking to Defendants Global Risk Advisors LLC ("GRA") and Kevin Chalker ("Chalker") (collectively, "Defendants"). The declarant does not wish for his identity to be known to Defendants in this early phase of the litigation. This is based on the declarant's real and justified fear that Defendants will retaliate against him and/or his family. In addition to his statements in the declaration, as well as the Declaration of George J. Terwilliger III (attached here as **Exhibit 1**), the declarant has evidence to substantiate his fear. If the case proceeds to discovery, the declarant would, with all necessary and appropriate safety measures in place, become available for deposition and other discovery, as appropriate, because he is confident that the Court will implement the necessary safeguards to ensure that he does not face retaliation.

Other courts have followed these same procedures for the consideration of anonymous declarations. For example, in *Doe v. Google LLC*, No. 20-cv-7502-BLF, 2020 WL 6460548, at *3 (N.D. Cal. Nov. 3, 2020), the district court considered an anonymous declaration in opposition to a TRO motion after the defendants demonstrated good cause for anonymity and submitted the real declaration for *in camera* review. Likewise, in *Todd v. Lovecraft*, No. 19-cv-1751-DMR (N.D. Cal. Jan. 6, 2020), the district court considered an anonymous declaration based on the declarant's fear of harassment and retaliation, the other party's ability to depose her, and the submission of the real declaration under seal. Finally, in *Puente Ariz. v. Arpaio*, No. CV14-1356 PHX, 2016 WL 7743406, at *3 (D. Ariz. Jan. 22, 2016), the district court considered three anonymous declarations because the declarants would have faced "serious consequences" if their identities were known

and because the other party had the opportunity to depose them. Notably, the *Puente* court did not even require the submission of the real declarations.

Here, the submission of the signed declaration for *in camera* review will allow the Court to verify the identity of the declarant and confirm that he made the assertions in his declaration under penalty of perjury, in accordance with 28 U.S.C. § 1746. Additionally, based on the declarant's statements and the Terwilliger Declaration, the Court can confirm that the declarant has a real and substantiated fear for the safety and himself and/or his family. Further, Defendants will suffer no prejudice, and any due process concerns will be satisfied, because the declarant would become available, with appropriate safety procedures in place, when the case proceeds to discovery. At this time, on a motion for leave to amend (or on a motion to dismiss, should Defendants so file), there is no need for Defendants to know the identity of the declarant because his statements, as reflected in the pleading, must be taken as true.

For all these reasons, we ask the Court for leave to submit the signed declaration for *in camera* review.

Thank you for your consideration of this matter.

Respectfully submitted,

/s/ George J. Terwilliger III

George J. Terwilliger III

cc: All Counsel of Record (via ECF)